



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL03000.L58480000.EU0000 241A; N-86209; 14-08807; TAS: 14X5232]

Notice of Realty Action: Modified Competitive Sale (N-86209) of Public Land in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer one approximately 40-acre parcel of public land in Lincoln County, Nevada, by modified competitive sale. Bidding on the subject parcel will begin at not less than the appraised fair market value (FMV) of \$19,000. The BLM identified the parcel for disposal in the 2008 Ely District Resource Management Plan and Environmental Impact Statement, and has examined the parcel and found it suitable for disposal by modified competitive sale. The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), and the regulations at 43 CFR 2710.

DATES: Comments regarding the proposed sale must be received by the BLM on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. A sale would not be held prior to 60 days following publication of this Notice of Realty Action. If the BLM determines to proceed with the sale, a sale date would be scheduled and announced on the Ely District website and in The Ely Times at least 15 days in advance.

ADDRESS: Written comments concerning the proposed sale should be sent to the BLM Field Manager, Caliente Field Office, 1400 South Street, P.O. Box 237, Caliente, NV

89008, or email vbarr@blm.gov.

FOR FURTHER INFORMATION CONTACT: Cynthia Longinetti, Realty Specialist, at 775-289-1809, or clongine@blm.gov, or the BLM Ely District website:

http://www.blm.gov/nv/st/en/fo/ely_field_office.html. A map delineating the proposed sale is available for public review at the website and at the BLM Caliente Field Office and at the BLM Ely District Office at 702 N. Industrial Way, Ely, NV 89301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The parcel is located approximately 20 miles southeast of Rachel, Nevada, off State Route 375, on the southern side of Tickaboo Valley, and is legally described as:

Mount Diablo Meridian

T. 6 S., R. 57 E.,

sec. 25, NW¹/₄NW¹/₄.

The area described contains 40 acres, in Lincoln County, Nevada.

This tract of public land meets the disposal criteria consistent with Section 203 of FLPMA and is in conformance with the BLM Ely District Final Environmental Impact Statement and Record of Decision approved on November 30, 2007, and Resource Management Plan (RMP), approved on August 20, 2008. The parcel is identified as suitable for disposal and its disposal would be in compliance with Public Law 108-424,

the Lincoln County Conservation, Recreation, and Development Act (LCCRDA), enacted on November 30, 2004. The proposed action also conforms to the 2008 Ely RMP as referenced in the Lands and Realty objectives LR-22, page 68; and Appendix B, page B-1. All of these documents, a map, and the approved appraisal report for the parcel are available for review at the BLM's Ely District Office and Caliente Field Office. A Determination of National Environmental Policy Act Adequacy was approved on August 11, 2010.

No significant resource values will be affected by the disposal of the parcel. The parcel is not required for any Federal purposes.

The sale, as proposed, would be a public, oral auction and would be held at the BLM Caliente Field Office, 1400 South Front Street, Caliente, Nevada. Bidding on the sale parcel will begin at the established FMV.

Steve and Glenda Medlin reside on a long-standing 2.5-acre Residential Lease (N-47788) authorized under Section 302 of FLPMA. Grazing Permit #2705021 authorized the Medlin's to operate a cattle ranching business on the surrounding 37.5 acres within the Bald Mountain Grazing Allotment. Over 25 years, the Medlin's built several improvements and caused considerable disturbance to the surrounding 37.5 acres.

The BLM examined the parcel and found it to be consistent with and suitable for disposal using modified competitive sale procedures at 43 CFR 2710.0-6 (c)(1) and 43 CFR 2711.3-2, which allow for the use of modified competitive sales in certain circumstances to assure equitable distribution of land among purchasers or to recognize equitable consideration or public policies. In making such a determination, the authorized officer can consider various factors including the needs of State and local

government, adjoining landowners, and historical users. In accordance with 43 CFR 2711.3-2(a)(2)(c), the authorized officer has determined the modified competitive sale is appropriate for this parcel based on historical uses. Modified competitive bidding includes, but is not limited to, offering a designated bidder the right to meet the highest bid or the right of first refusal to purchase the lands at FMV. The highest bid among the qualified bids received for this sale will be declared. Refusal or failure to meet the highest bid shall constitute a waiver of the designated bidder preference. In consideration of the historical uses of the parcel, to protect on-going uses, and to avoid dislocation of existing users, the BLM authorized officer has identified Steve Medlin as the designated bidder for the sale of this parcel. The Lincoln County Commission has expressed support for this designation

Modified competitive sale procedures: The designated bidder or his authorized representative must be present at the oral bid sale. Should the designated bidder appoint a representative for this sale, they must submit in writing a notarized document identifying the level of capacity given to their designated representative. This document must be signed by both parties. The designated bidder or his authorized representative will have the opportunity to meet and accept the high bid as the purchase price of the parcel or to refuse that offer. Should the designated bidder or his authorized representative fail to exercise the preference consideration offered by the authorized officer to meet the high bid as the purchase price at the sale, the high bid will be declared the successful bid in accordance with regulations at 43 CFR 2711.3-2(c), using the procedures specified in 43 CFR 2711.3-1(d), competitive bidding procedures, where the highest qualifying bid received shall be publicly declared by the authorized officer.

Acceptance or rejection of any offer to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3-1 (f) and (g) of this subpart.

The bid deposit payment and the final payment must be in the form of a bank draft, cashier's check, certified check, or U.S. postal money order, or any combination thereof, and made payable in U.S. dollars to the Department of the Interior – Bureau of Land Management. The bid deposit of 20 percent is due immediately following the close of the sale. Personal or company checks will not be accepted. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

Full payment must be made within 180 days from the date the sale offer is received. Failure to pay the full purchase price within 180 days of the sale will disqualify the sale offer. Failure to pay the full purchase price within the allotted time will result in forfeiture of the bid deposit in accordance with 43 CFR 2711.3-1(d). No exceptions will be made. The BLM cannot accept the full price at any time following the expiration of the 180th day after the sale offer(s). Arrangements for electronic fund transfer to the BLM shall be made a minimum of 2 weeks prior to final payment. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

All minerals for the parcel will be reserved in accordance with the BLM's approved Mineral Report, dated July 19, 2010. Information pertaining to the reservation of minerals specific to the parcel is located in the case file and is available for public review at the BLM Office at the addressed listed above.

The LCCRDA P.L. 108-424, Section 102(g)(1), states that Federal land described

in subsection (a) is withdrawn from all forms of entry and appropriation under the public land laws and mining laws and that the land segregation will terminate when the land is sold. Additionally, in accordance with 43 CFR 2807.15 and 2886.15, upon publication of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants.

Any conveyance document issued would be subject to the following terms, conditions, and reservations:

1. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe shall be reserved to the United States.
3. The conveyance will be subject to all valid existing rights, including right-of-way N-90722 for an access road granted to the Lincoln County Road Department commonly known as the Medlin Ranch Road, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) is reserved.
4. By accepting this patent, the purchasers/patentees agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use,

occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (a) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (b) Judgments, claims or demands of any kind assessed against the United States; (c) Costs, expenses, or damages of any kind incurred by the United States; (c) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (e) Activities by which solid waste or hazardous substances or waste, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

5. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9620(h), as amended by the Superfund Amendments and Reauthorization Act of 1986, (100 Stat. 1670), notice is hereby given that the described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more.

6. All Recognized Environmental Concerns located within or adjacent to the 40-acre parcel on public land have been removed or cleaned up by Steve and Glenda Medlin and inspected for compliance by the BLM. An Environmental Site Assessment was approved by the BLM Ely District Manager on July 12, 2010.

No warranty of any kind, express or implied, is given by the United States, its officers or employees, as to title, access to or from the above described parcel of land, whether or to what extent the land may be developed, its physical condition, or past, present or future uses, or any other circumstances or condition. The conveyance of any such parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA.

Bidders must demonstrate to the satisfaction of the authorized officer that they meet the requirements of 43 CFR 2711.2 to hold real property in the United States. Failure to submit documentation to the BLM within 30 days from receipt of the high bidder letter shall result in the cancellation of the bid.

The parcel may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Encumbrances of record, appearing in the case file for the parcel proposed for sale, are available for review during business hours, 7:30 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the Ely District Office, except during federally recognized holidays.

The parcel is subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any right-of-way within the parcel may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity,

if applicable, or to an easement.

The BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Ely District Office prior to 30 days before the scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the Ely District Office 30 days from the date on the high bidder letter by 4:30 p.m. Pacific Time. Name changes will not be accepted after that date. To submit a name change, the apparent high bidder(s) must submit the name change on the Certificate of Eligibility form to the Ely District Office in writing. Certificate of Eligibility forms are available at the Ely District Office and on the BLM website at:

http://www.blm.gov/nv/st/en/snplma/Land_Auctions.html.

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Service regulations. The BLM is not a party to any 1031 Exchange.

All sales are made in accordance with and subject to the governing provisions of

law and applicable regulations.

In accordance with 43 CFR 2711.3-1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

In order to determine the FMV, certain assumptions may have been made concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations, and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Only written comments will be considered properly filed. Before including your address, phone number, email address, or other personal identifying information in your comment—you should be aware that your entire comment, including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1-2(a) and (c))

Victoria Barr, Manager
Caliente Field Office

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